

§21.31

50 CFR Ch. I (10–1–12 Edition)

spouse, executor, administrator, or other legal representative of a deceased raptor propagation permittee may transfer any bird, eggs, or semen held by the deceased permittee to another authorized permittee within 90 days of the death of the falconry permittee. After 90 days, disposition of a bird held under the permit is at our discretion.

(s) *Records of captive propagation efforts.* You must maintain complete and accurate records of all operations, including the following, for at least 5 years after the expiration of your permit. However, you may want to retain your records for a longer time if you want to get another migratory bird permit, a Convention on International Trade in Endangered Species of Wild Fauna and Flora permit, or a Wild Bird Conservation Act permit.

(1) The acquisition of raptors, eggs, or semen you acquired from the wild or that were transferred to you.

(i) What you acquired, and the species, sex, age, and band number of each bird you acquired.

(ii) Whether you acquired the raptor, egg, or semen from the wild or you purchased it or it was transferred to you.

(2) The disposition of raptors, eggs, or semen you sell or transfer to another permittee. The information should include the band number of raptors you sell or transfer.

(t) *Annual report.* You must submit a completed FWS Form 3-202-8 to your Regional Migratory Bird Permit office by January 31 each year for January 1 through December 31 of the preceding year.

(u) *Endangered or threatened species.* If you wish to propagate endangered or threatened species, you must have at least 2 years of experience handling raptors in a propagation program or programs. You may also need an endangered species permit to propagate threatened or endangered raptors. See §§17.21 and 17.22 of this chapter for permit requirements to propagate threatened or endangered raptors.

(v) *Applying for a Federal raptor propagation permit.* Using FWS Form 3-200-12, you must submit your application for a raptor propagation permit to the appropriate Regional Director, to the attention of the Migratory Bird Permit Office. You can find addresses for the

Regional Directors in 50 CFR 2.2. Your application must contain the general information and the certification required in §13.12(a) of this chapter, a copy of your State permit authorizing raptor propagation, if your State requires one, and a description (including dimensions), drawings, and photographs of the facilities and equipment you will use.

(w) *Criteria for issuing a permit.* When we receive a completed application, we will decide whether we should issue a permit to you. We will consider the general criteria in part 13 of this chapter and the following factors:

(1) You must be at least 18 years old and have at least 2 full years of experience handling raptors.

(2) You must have a propagation permit or other authorization for raptor propagation from your State or Tribe, if your State or Tribe requires it.

(3) Your raptor propagation facilities must be adequate for the number and species of raptors to be held under your permit.

(x) *Updating a raptor propagation permit after a move.* If you move within your State or get a new mailing address, you must notify us within 30 days (see §13.23(c) of this chapter). If you move to a new State, within 30 days you must inform both your former and your new (if applicable) Migratory Bird Permit Offices of your address change. If you have new propagation facilities, you must provide information, pictures, and diagrams of them, and they may be inspected in accordance with Federal or State requirements. Thereafter, no mandatory inspections of the facilities will continue.

(y) *Permit expiration.* Your Federal permit may be valid for up to 5 years from when it is issued or renewed. It will expire on the same day as your State permit, unless your State permit is for a period longer than 5 years, or unless we amend, suspend, or revoke it.

[76 FR 29667, May 23, 2011]

§21.31 Rehabilitation permits.

(a) *What is the permit requirement?* Except as provided in §21.12, a rehabilitation permit is required to take, temporarily possess, or transport any migratory bird for rehabilitation purposes.

However, any person who finds a sick, injured, or orphaned migratory bird may, without a permit, take possession of the bird in order to immediately transport it to a permitted rehabilitator.

(b) *What are the general permit provisions?* (1) The permit authorizes you to:

(i) Take from the wild or receive from another person sick, injured, or orphaned migratory birds and to possess them and provide rehabilitative care for them for up to 180 days;

(ii) Transport such birds to a suitable habitat for release, to another permitted rehabilitator's facilities, or to a veterinarian;

(iii) Transfer, release, or euthanize such birds;

(iv) Transfer or otherwise dispose of dead specimens; and

(v) Receive, stabilize, and transfer within 48 hours types of migratory bird species not authorized by your permit, in cases of emergency. If a rehabilitator authorized to care for the bird is not available within that time-frame, you must contact the issuing office for authorization to retain the bird until it can be transferred.

(2) The permit does not authorize the use of migratory birds for educational purposes.

(c) *How do I apply for a migratory bird rehabilitation permit?* You must apply to the appropriate Regional Director—Attention Migratory Bird Permit Office. You can find addresses for the appropriate Regional Directors in §2.2 of subchapter A of this chapter. Your application package must consist of the following:

(1) A completed application (Form 3-200-10b);

(2) A copy of your State rehabilitation permit, license, or other authorization, if one is required in your State; and

(3) A check or money order made payable to the "U.S. Fish and Wildlife Service" in the amount of the application fee for permits issued under this section listed in §13.11 of this chapter.

(d) *What criteria will the Service consider before issuing a permit?* (1) Upon receiving an application completed in accordance with paragraph (c) of this section, the Regional Director will decide whether to issue you a permit based on

the general criteria of §13.21 of this chapter and whether you meet the following requirements:

(i) You must be at least 18 years of age with at least 100 hours of hands-on experience, gained over the course of at least 1 whole year, rehabilitating the types of migratory birds you intend to rehabilitate (e.g., waterbirds, raptors), or comparable experience. Up to 20 hours of the 100-hour time requirement may be fulfilled by participation in migratory bird rehabilitation seminars and courses.

(ii) Your facilities must be adequate to properly care for the type(s) of migratory bird species you intend to rehabilitate, or you must have a working relationship with a person or organization with such facilities.

(iii) You must have an agreement with a licensed veterinarian to provide medical care for the birds you intend to rehabilitate, unless you are a licensed veterinarian.

(iv) You must have a State permit, license, or other authorization to rehabilitate migratory birds if such authorization required by your State.

(2) In issuing a permit, the Regional Director may place restrictions on the types of migratory bird species you are authorized to rehabilitate, based on your experience and facilities as well as on the specific physical requirements and behavioral traits of particular species.

(e) *What are the standard conditions for this permit?* In addition to the general permit conditions set forth in part 13 of this chapter, rehabilitation permits are subject to the following conditions:

(1) *Facilities.* You must conduct the activities authorized by this permit in appropriate facilities that are approved and identified on the face of your permit. In evaluating whether caging dimensions are adequate, the Service will use as a guideline the standards developed by the National Wildlife Rehabilitators Association and the International Wildlife Rehabilitation Council (*Minimum Standards for Wildlife*

Rehabilitation, 2000).¹ The Regional Migratory Bird Permit Office will authorize variation from the standards where doing so is reasonable and necessary to accommodate a particular rehabilitator's circumstances, unless a determination is made that such variation will jeopardize migratory birds. However, except as provided by paragraph (f)(2)(i) of this section, all facilities must adhere to the following criteria:

(i) Rehabilitation facilities for migratory birds must be secure and provide protection from predators, domestic animals, undue human disturbance, sun, wind, and inclement weather.

(ii) Caging must be made of a material that will not entangle or cause injury to the type of birds that will be housed within.

(iii) Enclosures must be kept clean, well-ventilated, and hygienic.

(iv) Birds must not be overcrowded, and must be provided enough perches, if applicable.

(v) Birds must be housed only with compatible migratory bird species.

(vi) Birds may not be displayed to the public unless you use video equipment, barriers, or other methods to reduce noise and exposure to humans to levels the birds would normally encounter in their habitat. You may not use any equipment for this purpose that causes stress or harm, or impedes the rehabilitation of any bird.

(2) *Dietary requirements.* You must provide the birds in your care with a diet that is appropriate and nutritionally approximates the natural diet consumed by the species in the wild, with consideration for the age and health of the individual bird.

(3) *Subpermittees.* Except as provided by paragraph (f)(2)(ii) of this section, anyone who will be performing activities that require permit authorization under paragraph (b)(1) of this section when you or a subpermittee are not present, including any individual who transports birds to or from your facil-

ity on a regular basis, must either possess a Federal rehabilitation permit or be authorized as your subpermittee by being named in writing to your issuing Migratory Bird Permit Office. This does not apply to General Falconers or Master Falconers, who may assist with conditioning raptors for release without being your subpermittee. If you have a falconer assist in conditioning a rehabilitated raptor for release, you must provide the falconer with a letter or form that identifies the bird and explains that the falconer is assisting in rehabilitation of the raptor.

(i) Your subpermittees must be at least 18 years of age and possess sufficient experience to tend the species in their care.

(ii) Your subpermittees who are authorized to care for migratory birds at a site other than your facility must have facilities adequate to house the species in their care, based on the criteria of paragraph (e)(1) of this section. All such facilities except those of a falconer assisting in conditioning raptors for release must be approved by the issuing office.

(iii) As the primary permittee, you are legally responsible for ensuring that your subpermittees, staff, and volunteers adhere to the terms of your permit when conducting migratory bird rehabilitation activities.

(4) *Disposition of birds under your care.*

(i) You must take every precaution to avoid imprinting or habituating birds in your care to humans. If a bird becomes imprinted to humans while under your care, you will be required to transfer the bird as directed by the issuing office.

(ii) After a bird is rehabilitated to a condition suitable for release to the wild, you must release it to suitable habitat as soon as seasonal conditions allow, except that you may transfer a rehabilitated wild raptor to a holder of a State, tribal, or territorial falconry permit if the permit holder is authorized to hold the species for use in falconry. The transfer may need the approval of your State, tribe, or territory. The falconer must complete a Form 3-186A reporting the transfer.

¹Copies may be obtained by contacting either the National Wildlife Rehabilitators Association: 14 North 7th Avenue, St. Cloud MN 56303-4766, <http://www.nwawildlife.org/default.asp>; or the International Wildlife Rehabilitation Council: 829 Bancroft Way, Berkeley, CA 94710, <http://www.iwrc-online.org>.

(A) You may not retain migratory birds longer than 180 days without additional authorization from your Regional Migratory Bird Permit Office. If the appropriate season for release is outside the 180-day timeframe, you must seek authorization from your Fish and Wildlife Service Regional Migratory Bird Permit Office to possess the bird until the appropriate season.

(B) Before releasing a threatened or endangered migratory bird, you must comply with any requirements for the release from your Fish and Wildlife Service Regional Migratory Bird Permit Office.

(iii) You must euthanize any bird that cannot feed itself, perch upright, or ambulate without inflicting additional injuries to itself where medical and/or rehabilitative care will not reverse such conditions. You must euthanize any bird that is completely blind, and any bird that has sustained injuries that would require amputation of a leg, a foot, or a wing at the elbow or above (humero-ulnar joint) rather than performing such surgery, unless:

(A) A licensed veterinarian submits a written recommendation that the bird should be kept alive, including an analysis of why the bird is not expected to experience the injuries and/or ailments that typically occur in birds with these injuries and a commitment (from the veterinarian) to provide medical care for the bird for the duration of its life, including complete examinations at least once a year;

(B) A placement is available for the bird with a person or facility authorized to possess it, where it will receive the veterinary care described in paragraph (e)(4)(iii)(A) of this section; and

(C) The issuing office specifically authorizes continued possession, medical treatment, and rehabilitative care of the bird.

(iv) You must obtain authorization from your issuing Migratory Bird Permit Office before euthanizing endangered and threatened migratory bird species. In rare cases, the Service may designate a disposition other than euthanasia for those birds. If Service personnel are not available, you may euthanize endangered and threatened migratory birds without Service authorization when prompt euthanasia is

warranted by humane consideration for the welfare of the bird.

(v) You may place nonreleasable live birds that are suitable for use in educational programs, foster parenting, research projects, or other permitted activities with persons permitted or otherwise authorized to possess such birds, with prior approval from your issuing Migratory Bird Permit Office.

(vi)(A) You may donate dead birds and parts thereof, except threatened and endangered species, and bald and golden eagles, to persons authorized by permit to possess migratory bird specimens or exempted from permit requirements under §21.12.

(B) You must obtain approval from your issuing office before disposing of or transferring any live or dead endangered or threatened migratory bird specimen, parts, or feathers.

(C) You must send all dead bald and golden eagles, and their parts and feathers to: National Eagle Repository, Building 128, Rocky Mountain Arsenal, Commerce City, CO 80022. If your State requires you to notify State wildlife officers of a dead bald or golden eagle before sending the eagle to the Repository you must comply with State regulations. States may assume temporary possession of the carcasses for purposes of necropsy.

(D) Unless specifically required to do otherwise by the Service, you must promptly destroy all other dead specimens by such means as are necessary to prevent any exposure of the specimens to animals in the wild.

(vii) With authorization from your issuing Migratory Bird Permit Office, you may hold a nonreleasable bird longer than 180 days for the purpose of fostering juveniles during their rehabilitation. You may also use birds you possess under an educational permit to foster juveniles.

(viii) You may possess a reasonable number of feathers for imping purposes, based on the numbers and species of birds for which you regularly provide care.

(ix) You may draw blood and take other medical samples for purposes of the diagnosis and recovery of birds under your care, or for transfer to authorized facilities conducting research

pertaining to a contagious disease or other public health hazard.

(x) You may conduct necropsies on dead specimens in your possession, except that you must obtain approval from your Regional Migratory Bird Permit Office before conducting necropsies on threatened or endangered species.

(xi) This permit does not confer ownership of any migratory bird. All birds held under this permit remain under the stewardship of the U.S. Fish and Wildlife Service.

(5) *Notification to the U.S. Fish and Wildlife Service.* (i) You must notify your issuing Migratory Bird Permit Office within 24 hours of acquiring a threatened or endangered migratory bird species, or bald or golden eagle, whether live or dead. You may be required to transfer these birds to another facility designated by the Service.

(ii) You must immediately notify the local U.S. Fish and Wildlife Service Law Enforcement Office if you have reason to believe a bird has been poisoned, electrocuted, shot, or otherwise subjected to criminal activity. Contact information for your local Service Law Enforcement office is listed on your permit, or you can obtain it on the Internet at <http://offices.fws.gov>.

(iii) If the sickness, injury, or death of any bird is due or likely due to avian virus, or other contagious disease or public health hazard, you must notify and comply with the instructions given by the State or local authority that is responsible for tracking the suspected disease or hazard in your location, if that agency is currently collecting such information from the public.

(6) You must maintain a working relationship with a licensed veterinarian. If your working relationship with your original cooperating veterinarian is dissolved, you must establish an agreement within 30 days with another licensed veterinarian to provide medical services to the birds in your care, and furnish a copy of this agreement to the issuing office.

(7) *Recordkeeping.* You must maintain complete and accurate records of all migratory birds that you receive, including for each bird the date received, type of injury or illness, disposition,

and date of disposition. You must retain these records for 5 years following the end of the calendar year covered by the records.

(8) *Annual report.* You must submit an annual report that includes the information required by paragraph (e)(7) for the preceding calendar year to your issuing Migratory Bird Permit Office by the date required on your permit. You may complete Service Form 3-202-4, or submit your annual report from a database you maintain, provided your report contains all, and only, the information required by Form 3-202-4.

(9) At the discretion of the Regional Director, we may stipulate on the face of your permit additional conditions compatible with the permit conditions set forth in this section, to place limits on numbers and/or types of birds you may possess under your permit, to stipulate authorized location(s) for your rehabilitation activities, or otherwise specify permitted activities, based on your experience and facilities.

(f) *How does this permit apply to oil and hazardous waste spills?* Prior to entering the location of an oil or hazardous material spill, you must obtain authorization from the U.S. Fish and Wildlife Service Field Response Coordinator or other designated Service representative and obtain permission from the On-Scene Coordinator. All activities within the location of the spill are subject to the authority of the On-Scene Coordinator. The U.S. Fish and Wildlife Service is responsible for the disposition of all migratory birds, dead or alive.

(1) *Permit provisions in oil or hazardous material spills.* (i) In addition to the rehabilitation permit provisions set forth in paragraph (b) of this section, when under the authority of the designated U.S. Fish and Wildlife Service representative this permit further authorizes you to temporarily possess healthy, unaffected birds for the purpose of removing them from imminent danger.

(ii) This permit does not authorize salvage of dead migratory birds. When dead migratory birds are discovered, a Service law enforcement officer must be notified immediately in order to coordinate the handling and collection of evidence. Contact information for your

local Service Law Enforcement office is listed on your permit and on the Internet at <http://offices.fws.gov>. The designated Service representative will have direct control and responsibility over all live migratory birds, and will coordinate the collection, storage, and handling of any dead migratory birds with the Service's Division of Law Enforcement.

(iii) You must notify your issuing Migratory Bird Permit Office of any migratory birds in your possession within 24 hours of removing such birds from the area.

(2) *Conditions specific to oil and hazardous waste spills*—(i) *Facilities*. Facilities used at the scene of oil or hazardous waste spills may be temporary and/or mobile, and may provide less space and protection from noise and disturbance than facilities authorized under paragraph (e)(1) of this section. Such facilities should conform as closely as possible with the facility specifications contained in the Service policy titled *Best Practices for Migratory Bird Care During Oil Spill Response*.²

(ii) *Subpermittees*. In cases of oil and hazardous waste spills, persons who assist with cleaning or treating migratory birds at the on-scene facility will not be required to have a rehabilitation permit or be a subpermittee; however, volunteers must be trained in rescue protocol for migratory birds affected by oil and hazardous waste spills. A permit (or subpermittee designation) is required to perform extended rehabilitation of such birds, after initial cleaning and treating, at a subsequent location.

(g) *Will I also need a permit from the State in which I live?* If your State requires a license, permit, or other authorization to rehabilitate migratory birds, your Federal migratory bird rehabilitation permit will not be valid if you do not also possess and adhere to the terms of the required State authorization, in addition to the Federal permit. Nothing in this section prevents a State from making and enforcing laws or regulations consistent with this sec-

tion that are more restrictive or give further protection to migratory birds.

(h) *How long is a migratory bird rehabilitation permit valid?* Your rehabilitation permit will expire on the date designated on the face of the permit unless amended or revoked. No rehabilitation permit will have a term exceeding 5 years.

[68 FR 61137, Oct. 27, 2003, as amended at 73 FR 59477, Oct. 8, 2008; 75 FR 29918, May 28, 2010]

Subpart D—Control of Depredating and Otherwise Injurious Birds

§21.41 Depredation permits.

(a) *Permit requirement*. Except as provided in §§21.42 through 21.46, a depredation permit is required before any person may take, possess, or transport migratory birds for depredation control purposes. No permit is required merely to scare or herd depredating migratory birds other than endangered or threatened species or bald or golden eagles.

(b) *Application procedures*. Submit application for depredation permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in §13.12(a) of this subchapter, and the following additional information:

- (1) A description of the area where depredations are occurring;
- (2) The nature of the crops or other interests being injured;
- (3) The extent of such injury; and
- (4) The particular species of migratory birds committing the injury.

(c) *Additional permit conditions*. In addition to the general conditions set forth in part 13 of this subchapter B, depredation permits shall be subject to requires, in this section:

(1) Permittees may not kill migratory birds unless specifically authorized on the permit.

(2) Unless otherwise specifically authorized, when permittees are authorized to kill migratory birds they may do so only with a shotgun not larger

²You can obtain copies of this document by writing to the U.S. Fish and Wildlife Service, Division of Environmental Quality, 4401 North Fairfax Drive, MS 322, Arlington, VA, 22203.